



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,923	09/25/2003	Ronald A. Hout	20121-72276	8460

23643 7590 01/11/2005

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

EXAMINER

GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,923

Applicant(s)

HOUPT ET AL.

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-25-03, 1-6-04, and 11-29-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ***
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Election/Restriction

1. Claim 25 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 11-29-04.

Claim Rejections - 35 U.S.C. 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, and

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 5-7, 10-14, 16-18, 21, and 23-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Fay (US 6,484,463).

Claims 1-3, 5-7, 10-14, 16-18, 21, and 23-24, Fay teaches a method of producing a fiberglass insulation batt including passing a stream of fiberglass insulation 100 through cutter 104 to cut insulation 100 to form side-by-side separate strips 22 and 24 separated by a gap with strips 22 and 24 having opposed longitudinally extending side

edges, applying binder adhesive to portions of strips 22 and 24 along the gap using item-nozzle 108, and then bonding strips 22 and 24 together using the binder adhesive to form a binder bridge spanning the gap to producing the final batt. Fay teaches using a strip separator to move strips 22 and 24 away from each other for widening the gap such that the binder is within this widened gap when dispensed. The bridge in Fay is considered frangible to the same degree as that in the claims in that it inherently has relatively weak internal bonds in comparison to the internal bonds within strips 22 and 24 in that the binder adhesive is not reinforced with glass fibers. The binder adhesive is, but not limited to, a hot melt type. Fay teaches applying a force to the edges of strips 22 and 24 for separation, see Figure 8 and related discussion. Also, Fay uses rollers 110 that rotate on an upright axis for pressing strips 22 and 24 together in a channel for bonding.

4. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cameron et al. (US 4,552,793).

Claims 1 and 11, Cameron et al. teach a method of producing a fiberglass insulation batt including passing a stream of fiberglass insulation 12 through cutter 28 to cut insulation 12 to form side-by-side separate strips 30 separated by a gap, applying binder adhesive to portions of strips 30 along the gap (from above and along the gap) using item 32, and then bonding strips 30 together using the binder adhesive to form a binder bridge spanning the gap to produce the final batt. The bridge in Cameron is considered frangible to the same degree as that in the claims in that it inherently has

relatively weak internal bonds in comparison to the internal bonds within strip 30 in that binder adhesive is not reinforced with glass fibers.

Claim Rejections - 35 U.S.C. 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay as applied to claims 1-3, 5-7, 10-14, 16-18, 21, and 23-24 above, and further in view of Cameron et al.

Claims 4 and 19, Fay does not teach a conveyor.

However, Cameron demonstrates use of a conveyor (Fig 1) which helping guide the batt and strips thereunder, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Fay.

Claim 20, Fay teaches using item-nozzle 108 within the gap.

7. Claims 8-9, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay.

Claims 8-9, 15, and 22, Fay does not teach using pressurized gas as the outside force for pressing strips 22 and 24 therebetween for bonding.

However, pressurized gas is an alternative to the rollers of Fay and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Fay using such instead because it is obvious to replace one pressure means with another art recognized alternative pressure means in the same art.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-2, 5, 11-12, 14, 18, 21, and 23-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/670,539.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claims of the instant application are within the claims of the copending application. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 3, 6-10, 13, 15-17, and 22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/670,539 in view of Fay in that Fay teaches use of a nozzle as claimed in claims 3 and 13 and teaches a channel with rotating means 110 on the outsides of the strips for pressing and bonding as in claims 6-7, 10, and 16-17 where a pressurized gas means instead of the rollers 110 of Fay are a conventional alternative.

11. Claims 4 and 19-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/670,539 in view of Cameron in that Cameron teaches use of a conveyor as claimed.

Other Prior Art of Record

12. The following prior art is made of record:

Carlson teaches a method of producing a final batt including passing a stream of the batt through cutter 42 to cut the batt to form side-by-side separate strips 37a separated by a gap, applying a binder adhesive to portions of at least one of strips 37a along the gap using fingers 46, and then bonding strips 37a together using the binder adhesive to form a binder bridge spanning the gap to produce the final batt. Carlson also teaches using strip separator 45 to move strips 37a away from each other for widening the gap. The bridge in Carlson is considered frangible to the same degree as that in the claims in that it inherently has relatively weak internal bonds in comparison to the internal bonds within strips 37a in that the binder adhesive is not reinforced as within strip 37a.

Syme et al. teach a method of producing a fiberglass insulation batt including passing a stream of the batt through a cutter to cut the batt to form side-by-side separate strips 18 separated by a gap, applying a binder adhesive to portions of at least one of strips 18 along and within the gap using item 9, and then preventing bonding of strips 30 together using the binder adhesive so as not to form a binder bridge spanning the gap to make a final batt in that item 30 is provided to prevent bonding of the fast curing adhesive which does not require heat.

Shannon et al. teach a method of producing a fiberglass insulation batt including cutting a mother batt to form slabs, stacking the slabs at 37, cutting the stack at 38 to form strips, lining the strips together, and bonding the strips together using item 40. The longitudinal bridges in Figures 1 and 2 are formed when the stack is formed and then cut at 38.

Conclusion


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

Art Unit: 1734

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg 
January 10, 2004


LINDA GRAY
PRIMARY EXAMINER